

EXPERT EVIDENCE-OPINION ETC.

Expert evidence; "Science or Art"; Term "science or art" includes almost all branches of human knowledge requiring special study, experience or training Motor repairers proprietors of workshops are experts for determination of damage done to cars. (DB) PLD 1973 Lah. 81. Akbar Ali v. Khadim Hussain.

Law expert. Evidence of a witness on any branch of law including Muhammadan Law, except a question on a point of foreign law, is irrelevant. PLD 1952 Sindh 54. Maula Bakhsh v. Charuk. 1976 P.Cr.LJ 1212 Yaqoob v. Mst. Sharifan etc.

Photograph. Whether one document is a photograph of another is a question not one of science, art etc. Court may decide the question without the assistance of an expert. PLD 1958 Lah. 747. Mushtaq Ahmed Gurmani v. Z.A. Suleri.

Public analyst opinion is not defective when no question asked whether the ghee sample was heated for 2 hours to produce change in specification. (DB) 1970 P.Cr. LJ 301 Ahsan Hafeez.

Motor mechanic not examined in court. His certificate that tie-rod of the vehicle was broken is not admissible. 1972 P.Cr.LJ 692, Habib Ullah v. Mukhtar Hussain.

Expert not produced to prove whether stuff recovered was charas is fatal to prosecution. Accused acquitted. PLJ 1984 Cr. C. (Kar.) 240. Muhammad Ismail.

Expert not examined in court, report of the expert is of no use in the circumstances. (SC) 1974 SCMR 411. Allah Dino v. Muhammad Umar.

Photo copy of the report of an expert is not covered by sec. 510 of Cr.P.Code. (D.B) 1995 PCr LJ 484, Zahoor-ul-Islam etc.

Handwriting expert certificates cannot be considered without the author being examined and cross-examined. (SC) 1970 SCMR 506. Muhammad Hussain v. Abdul Razzak.

Proving secondary evidence of doctor. Doctors having gone abroad, their medico-legal reports proved by head clerk. No attempt made by prosecution to examine police official entrusted with service of summons issued in the names of the doctors to prove their absence from the country. Evidence excluded from consideration. 1974 P.Cr.LJ 180 Muhammad Siddiq etc.

Proving doctor's report. Doctor's reports proved by one acquainted with his handwriting. No satisfactory evidence led to show that the witness could not be found or his attendance could not be procured without unreasonable delay or expense. Requirement of law, held, not adequately satisfied. (SC) 1970 P.Cr. LJ 858 Fazal Muhammad.

Proved by another Doctor. The doctor writing the post-mortem report alleged to have gone abroad. The report proved by his superior officer acquainted with his handwriting and used as evidence. No attempt made to serve the summons on the doctor. Report, held, improperly brought on the record. Case remanded to Sessions Court. (DB) PLD 1970 Lah. 735 Shera etc.

Proved by another. Post-mortem Report can be proved by one acquainted with the handwriting of the author. (DB) PLD 1970 Lah. 735 Shera etc.

Carbon copies can be treated as primary evidence if the entire document and signatures are made by one uniform process. (DB) PLD 1970 Lah. 735 Shera.

Chemical Examiner and Serologist Reports are admissible in evidence in toto and not only its opinion part, without examining them at the trial. (DB) PLD 1972 Lah. 109 Muhammad etc.

Reasons wanting: Medical testimony. Reasons in support of the opinion wanting. Conviction cannot be based on such testimony. PLD 1963 Kar. 684 Allah Bux. PLD 1961 Kar. 679 Rafiq Ahmad. PLD 1952 BJ 15 = AIR 1916 PC 242 = AIR 1928 Lah. 250.

Reasons not given by expert for his opinion or conclusions or the test applied no value can be attached to such opinion. PLJ 1987 SC 481 Sultan.

Report of ballistics expert without reasons in support not relied upon. No reasons for opinion were given. Such opinion is of no value. (DB) PLJ 1981 Cr.C. (Kar.) 201. Naseer.

No reason given by ballistics expert in support of his opinion. Report not relied upon. (DB) PLJ 1981 Cr.C. (Lah.) 137. Ali Haider.

Photo-copy of report of Ballistics Expert is not admissible in evidence in absence of the original report. (DB) PLJ 1989 Cr.C. (Kar.) 70. State v. Muhammad Zakir Khan Changezi.

Doctor's opinion about firearms. Distance from which firearm was fired given by a medical witness is not conclusive when the opinion is contrary to the views expressed in reliable textbooks. (DB) PLD 1959 Kar. 137. Nawaz.

Time of death. Opinion of doctor about time of death merely conjectural and not conclusive on point. Time of death given by P.Ws. different from time given by doctor. P.Ws. believed. (DB) 1972 P.Cr.LJ 465 Haji etc.

Time of murder from stomach contents. Partly digested food found in stomach of deceased. Time taken in digesting food may be influenced by extraneous factors. Partly digested rice in stomach of the deceased will not necessarily negative the prosecution case with regard to the time of occurrence stated to be at "sun rise", the deceased having taken rice shortly after mid-night. (DB) PLD 1961 Dac. 1. Shahid Ullah Khan.

Forensic expert; prosecution bound to produce, the report of the forensic expert even if it goes against. 1968 P.Cr.LJ 321. Sardara.

Expert opinion about charas not produced in court, held, it could not be said without reasonable doubt whether the substance recovered from the accused was charas. Accused acquitted. 1976 P.Cr. LJ 643. Carlus Luch etc.

Ballistics expert not examined, though available. The benefit will go to the accused under section 114 illus (g) of Evidence Act. 1976 P.Cr.LJ 28 Shaman etc.

Ballistics expert not examined, although the report was positive and the expert was present. Retrial ordered. PLJ 1977 Lah. 489. Jan Muhammad v. Hussain etc.

Opinion has great weight. Albeit of expert opinion witness is entitled to great weight yet it cannot override factual observations by other equally competent expert witnesses recorded at the relevant time (SC) 1973 SCMR 162 Samano.

Weight of expert evidence vis-a-vis direct evidence. Expert evidence, whether medical or of ballistics expert is only confirmatory or explanatory of direct or circumstantial evidence. Confirmatory evidence not of much significance in presence of direct, forthright and creditworthy evidence. Expert evidence cannot outweigh direct evidence not deficient in quality. (SC) PLD 1976 SC 53, Yaqoob Shah PLJ 1976 SC 175.

Expert opinion to be preferred. Testimony of other witnesses must yield in favour of expert's testimony unless it is fishy, equivocal or against inexorable laws of nature. (DB) 1973 P.Cr.LJ 887 Abdul Qadir.

Opinion of authors who are dead. The opinion of living authors is not entitled to as much weight as that of those who are no more. (SC) PLD 1976 SC 97. Khurshid Bibi v. Muhammad Amin. (The question involved was divorce in Islamic Law).

Merely to aid Court. Expert opinion is only to aid Court in arriving on its own decision. Court can call for such opinion if it feels it necessary. (FB) PLD 1966 Dac. 523. Usmania Glass Sheet Factory Ltd. v. S.T.O. (DB) PLD 1966 Dac. 444. Farooq Ahmed v. Mufeezur Rehman.

Not binding. The opinion of an expert is never binding on the court. (DB) PLD 1950 Lah. 507, Muhammad Naeem v. Crown.

Not gospel truth. A Court is not bound to accept as gospel truth each word of what a doctor states as opinion. (DB) PLD 1957 Lah. 109.

When experts contradict each other, their evidence carries no weight. AIR 1933 Lah. 885. Saddiqa v. Atta.

Finger-print expert not examined in Court even though the conviction was mainly based on his report. Leave to appeal allowed by the Supreme Court. 1986 SCMR 1091. Rustam Khan etc.

Finger prints-18 ridges only compared. When 18 ridges are compared and found identical it can be assumed that the rest are also identical. Opinion of expert relied on. (DB) PLD 1960 Dac. 975. Rahim-ud-Din.

Thumb impression not decipherable, conviction based on mere surmises and conjectures held, is not proper. PLD 1963 Pesh. 17 Shaista Khan.

Handwriting expert's opinion needs corroboration, generally and should be very carefully examined to form basis of conviction. PLD 1968 Kar. 875. Muhammad Umar. 1969 P.Cr.LJ. 596 Tobarak Ali. (DB) PLD 1969 Dac. 214. Eskandar Ali v. Alhamara Begum. 1975 P.Cr.LJ 1151.

Handwriting expert's evidence alone does not warrant conviction, as it is a weak type of evidence. NLR 1984 Cr. 505. Abdul Rashid.

Production of handwriting expert is not necessary when the hand-writing is identified by the witnesses of the person concerned. PLJ 1988 Cr.C. (Kar.) 39. Malik Muhammad Iqbal.

Writing includes signature and it can be proved in the following ways:

- (1) By calling the writer himself;
- (2) By evidence of a person who saw the document being written;
- (3) By the evidence of a person acquainted with the writing of the writer;
- (4) By comparison of the disputed writing with the admitted writing of the writer; and

(5) By expert evidence. 1995 SCMR 246, MRS. Tahira Dilawar etc v. Ghulam Samdani etc. Opinion not conclusive proof. Opinion of handwriting expert is relevant but does not amount to conclusive proof. Such opinion when rebutted by overwhelming independent evidence, it can be conveniently rejected. PLD 1976 Kar. 762. Abdul Majid.

Corroboration. Evidence of handwriting expert cannot be implicitly relied upon unless corroborated. 1975 P.Cr.LJ. 1151 Muhammad Anwar.

When document was written. Opinion that a part of document was not written at the same time as the rest of it, is not a question as to the "identity of hand writing". Opinion held inadmissible. (DB) PLD 1956 Lah. 100. Abdul Qadir v. Crown.

Dangerous to rely on. It is dangerous to rely entirely on the opinion of handwriting expert. While opinion may be expressed as to the probability of one person being responsible for forging signature or not, this will be a matter of opinion only and cannot by any stretch of imagination be taken as firm evidence of proof. PLD 1952 Bal. 1. Saad Ali Khan v. Crown.

Risky to depend upon. Differences between disputed and admitted writings described by experts as "natural variations". Cursory examination by court revealing "obvious disparities". Held, it is risky to base a finding of genuineness of writing on expert's opinion. (SC) PLD 1963 SC 51. Ali Nawaz Gardezi v. Muhammad Yousaf.

Weak evidence. Handwriting expert's opinion is a weak type of evidence and is not conclusive in nature. PLD 1962 Lah. 558 = 1969 P.Cr.LJ 259 Jafar Alam. 1971 P.Cr.LJ 918 Ghulam Abbas.

Bias. Handwriting expert being concerned to discover only resemblances" between disputed writing and admitted writing is a strong proof of bias. Forged writing may "resemble" another writing. PLD 1962 Lah. 558 Ali Nawaz Gardezi.

Not the best method: Handwriting expert's opinion is not the best method of proving handwriting or signature. Other direct evidence available. It is not illegal to accept direct evidence and not to examine handwriting expert. (SC) 1968 P.Cr.LJ 1712 = 1968 SCMR 1126 Shabir Hussain.

Opinion to be received with caution. Handwriting expert's opinion is to be received with caution, as an expert is likely unconsciously to be prejudiced in favour of the party calling him. PLD 1958 Lah. 747 Mushtaq Ahmed Gurmani v. Z.A. Sulehri, PLD 1962 Lah. 558; PLD 1963 Lah. 141 (FB) Muhammad Yousaf v. Ali Nawaz (DB) PLD 1952 Bal. 52 Muhammad Hassan v. Crown.

Not the final word. Opinion of handwriting expert cannot be the final word on the subject. 1971 P.Cr.LJ 918 Ghulam Abbas.

Good reason not given. Handwriting expert failing to give good reasons in support of his opinion. Held, such evidence is of little value. (DB) PLD 1960 Dacca 897 M.A. Matlub.

Can be rebutted. Handwriting expert's opinion can be rebutted and conveniently rejected. PLJ 1976 Kar. 125 Abdul Majid.

Signature-Conflict of opinion. Signatures of accused on receipts denied. Conflict of opinion among lay witnesses about the handwriting of the accused. No handwriting expert examined nor any admitted signatures on record to enable the Court to compare the disputed signature. Held, the prosecution did not prove its case beyond reasonable doubt. (SC) 1969 SCMR 752 Zia-ud-Din.

Difference of opinion between handwriting experts as to the authorship of the disputed handwriting. Benefit of doubt given to the accused. PLJ 1974 Cr. C. (Lah.) 600 Faiz Muhammad.

Contradictory opinions. When the opinions of handwriting experts were contradictory the Court itself with the assistance of the counsel compared disputed handwriting with the genuine one and formed its own conclusions. PLD 1968 Kar. 263 Muhammad Siddiq v. Al-Muslim Transport Co. Court's opinion. Court satisfied that the accused and none else was the author of disputed writing and signature; non-production of handwriting expert does not weaken prosecution. PLD 1969 Pesh. 12 Muhammad Sadiq Javid. (SC) 1974 SCMR 490. S.M. Zahir v. Fazal Ali Ajmiri. PLD 1975 Lah. 299 Usman Ghani v. M.Amin.

Comparison of Signature by Court is a lawful mode of proof. No direct conflict of testimony between parties as to general character of signature and absence of positive evidence to the contrary. No fault can be found with the finding of the tribunal even if no expert is examined. PLJ 1976 Quetta. 53 Muhammad Sadiq v. Mumtaz.

Comparison by Court. Comparison of signatures by Courts with admitted signature is dangerous to rely on without the aid of an expert. Conviction based on such comparisons is bad. (DB) PLD 1958 Dacca 341. M. Nurul Haq Mia.

Court is entitled to make independent comparison of handwriting, apart from opinion of expert. (SC) PLD 1962 SC 102 Ali Ahmed.

Court entitled to compare handwriting of disputed documents even if the opinion of an expert on the subject is on record. Examination of an expert in every case is not directed by law. 1985 SCMR 214. Mst. Ummat-ul-Waheed v. Mst. Nasira Kausar etc.

Opinion not always essential. Comparison of disputed writing by Court for ascertaining correctness or otherwise of allegation of forgery is permissible in law. It is not always essential for Court to seek expert opinion on disputed signatures. PLD 1975 Lah. 299. Usman Ghani v. Muhammad Amin Khan.

Ballistics expert opinion only corroborative. The opinion of ballistics expert has corroborative value only. Conviction cannot be based solely on the opinion of such expert. That is, it proves only that the crime empty was fired from the weapon in possession of the accused; but in absence of the evidence that it was fired by the accused conviction cannot be based only on the opinion of the expert. (DB) PLD 1964 Pesh. 59 Nisar Hussain (DB) 1969 P.Cr.LJ 588 Jan Muhammad etc.

Opinion of doctor. Opinion of doctor referring to medical evidence alone is admissible and none other. Evidence of dying declaration made by deceased before a doctor brought on record of trial Court, held, not admissible. (DB) 1972 P.Cr.LJ 416
